



# Update on the U.S. Dolphin-Safe Final Finding



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# The International Dolphin Conservation Program Act (IDCPA)



- In 1997, the IDCPA was enacted in recognition of the hard work and the ultimate success of the ETP fishery to decrease dolphin mortality.
- The IDCPA supports the efforts of the international fleet and the provisions of the Panama Declaration and the La Jolla Agreement.
- The IDCPA establishes the "affirmative finding" process for nations participating in the AIDCP and the IATTC and requires the Secretary of Commerce to conduct scientific research and make the dolphin-safe determination.

# Possible Impacts of Chase and Encirclement on Dolphins



- Due to international efforts, current levels of observed dolphin mortality are considered non-threatening to dolphin stocks.
- However, some are concerned that the practice of chase and encirclement is causing physiological stress to the dolphins and that such stress may be having a significant adverse impact on depleted stocks.
- Therefore, the IDCPA requires that the change in the definition of dolphin-safe be subject to the results of required research.

# Dolphin-Safe Determination



- Specifically, the IDCPA requires the Secretary to make a determination:

*“whether chase and encirclement by the tuna purse seine industry is having a ‘significant adverse impact’ on any depleted dolphin stock.”*

- This finding will determine the U.S. dolphin-safe labeling standard for tuna caught in the ETP by large purse seine vessels.

# Legal Challenges to the Dolphin-Safe Definition



- In 1999, NMFS' initial finding changed the definition of dolphin-safe.
- Unfortunately, in 2000, a court ruling prohibited NMFS' use of the new dolphin-safe definition, and in 2001, an appellate court upheld the lower court's ruling.



# Research Mandated under the IDCPA



- The IDCPA requires: dolphin population abundance surveys and dolphin “stress studies”, including a necropsy study, a review of historical demographic and biological data from the affected dolphin stocks, and a chase-recapture experiment.
- This information will form the basis of the Secretary’s finding.
- The IDCPA also requires that the Secretary consider scientific information obtained under the IDCP and other relevant information as appropriate.
- The additional information is currently being reviewed and assessed by NMFS for incorporation with the information already in-hand.

# Status of IDCPA Research and Analyses



- NMFS has recently completed the required research to support the Secretary's final finding.
- These research efforts will provide substantial additional information for the final finding than was available for the initial finding in 1999.
- Independent peer review of the results and analyses will be completed later this summer.

# Organized Decision Process (ODP)



- The ODP is the context in which the Secretary will consider information for the final finding.
- It is designed to provide the Secretary with guidance for assessing and weighing a great deal of technical information.
- The ODP will provide the Secretary with an informed and appropriate decision-making environment.
- NMFS received over 400 substantive comments on the proposed ODP.
- NMFS is incorporating the comments, and the final ODP will be published soon.



# Expert Panels



- There will be two panels of independent scientific experts to review information addressing the Ecosystem and the Indirect Effects Questions within the ODP.
- They will provide advice to the Secretary based on a review of the results from the IDCPA research program, information obtained under the IDCP, and other relevant information.
- On May 9, 2002, NMFS solicited nominations for scientists to serve on the two panels.

# Time Line to the Final Finding

<b>August 1, 2001</b>	Scientific Consultation with the IATTC and the Marine Mammal Commission (MMC)
<b>December 7, 2001</b>	U.S. Court of International Trade Decision
<b>Oct. 2001 - July 2002</b>	Independent Expert Review of IDCPA Research
<b>January 2002</b>	Distribution of Draft ODP to MMC and the IATTC for Initial Comments
<b>February 15, 2002</b>	<u>Federal Register</u> Notice Regarding the Proposed ODP (60-day comment period)
<b>May 1, 2002</b>	Deadline for Scientific Information for Secretary's Consideration
<b>May 9, 2002</b>	<u>Federal Register</u> Notice Soliciting Nominations for the Expert Panels
<b>June 2002</b>	Update on Final Finding Process at the IATTC Annual Meeting
<b>July 2002</b>	<u>Federal Register</u> Notice of Final ODP
<b>August 2002</b>	Finalizing of IDCPA Science Report
<b>September 2002</b>	Convening of Stress and Ecosystem Expert Panels and Presentation of Information and Expert Panel Advice to Secretary
<b>September 2002</b>	Target Accelerated Date for Secretary's Final Finding
<b>December 31, 2002</b>	Required Deadline for Final Finding